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2 UNITED STATES  
3 ENVIRONMENTAL PROTECTION AGENCY  
4 REGION 9

5 In the Matter of :

6 Advanced Mini Storage )  
7 2625 Monte Diablo Ave. )  
8 Stockton, California 95203 )

9 Mr. Mykola Smetaniuk )  
10 Mr. Robert Dandineau )  
11 Mr. Louis B. Garcia )  
12 Mr. George Karadanis )

Order No. 89-14

13 Respondents )

14 Proceeding under Section 106 of the )  
15 Comprehensive Environmental Response, )  
16 Compensation and Liability Act of 1980, )  
17 as amended by the Superfund Amendments )  
18 and Reauthorization Act of 1986, )  
19 (42 U.S.C. §9606) )

20  
21 I. Jurisdiction

22 This Order is issued to Mr. Mykola Smetaniuk, Mr. Robert  
23 Dandineau, Mr. George Karadanis and Mr. Louis B. Garcia  
24 ("Respondents") pursuant to the Comprehensive Environmental  
25 Response, Compensation and Liability Act of 1980 (CERCLA), as  
26 amended by the Superfund Amendments and Reauthorization Act of  
27 1986 (SARA), 42 U.S.C. 9601, et seq., by authority delegated to  
28 the Administrator of the United States Environmental Protection  
Agency (EPA), and redelegated to the EPA Regions.

The Director of the Hazardous Waste Management Division, EPA  
Region 9, has determined that there may be an imminent and sub-

1   stantial endangerment to the public health, welfare and the en-  
2   vironment because of the release and threatened release of  
3   hazardous substances from the Advanced Mini Storage Site, at 2625  
4   Monte Diablo Avenue, Stockton, California.

## 6                                   II. Findings of Fact

### 7   BACKGROUND

8  
9   A.   The Advanced Mini Storage facility located west of Inter-  
10   state highway 5 in Stockton, California occupies approximately  
11   two and a half acres of land along Monte Diablo Avenue. The site  
12   is situated in a residential area and lies only a half a mile  
13   from Lewis Regional Park. The facility has been in operation  
14   since 1987, leasing small storage units to individuals and firms.

15  
16   B.   On January 24, 1989, the San Joaquin Local Health District  
17   (SJLHD) was notified by the San Joaquin County Office of Emer-  
18   gency Services (SJCOES) that chemicals, mostly military surplus  
19   items, were leaking from storage unit G-8 at the Advanced Mini  
20   Storage facility.

21  
22   C.   The property owners of the Advanced Mini Storage facility  
23   are Mr. Robert Dandineau, Mr. George Karadanis and Mr. Louis Gar-  
24   cia and the facility is operated and managed by Mr. Irv and  
25   Marilyn Suits. According to the company's records, Mr. Mykola  
26   Smetaniuk is the lessee of storage unit G-8, which contains the  
27   hazardous materials.

28   //

1 D. Under the provisions set forth in Section 107 of CERCLA, as  
2 amended by SARA, the above respondents can be deemed as  
3 "Responsible Parties" at the Advanced Mini Storage facility.  
4

5 E. On February 3, 1989, the SJLHD notified the California  
6 Department of Health Services (CDHS) of the leaking chemicals at  
7 the Site. Preliminary investigations by the CDHS and its en-  
8 vironmental contractor, Crosby & Overton, concluded that the  
9 chemicals were leaking into two neighboring units and that some  
10 of the floor in unit G-8 sustained extensive damage as a result  
11 of the chemical spills.  
12

13 F. From February 25-26, 1989, the CDHS and its contractor com-  
14 pleted an Interim Remedial Measure (IRM) which consisted of in-  
15 ventorying and segregating chemicals, lab packing and bagging  
16 leaking chemicals, and mopping and cleaning the damaged floors.  
17 The CDHS continued to assume the "lead" role in the remediation  
18 effort of the site until July of 1989, when they requested the  
19 EPA to take the "lead" in the cleanup operation.  
20

21 ENDANGERMENT  
22

23 G. The CDHS has identified the following potentially hazardous  
24 materials stored within storage unit G-8 at the Advanced Mini  
25 Storage facility:

- 26 a) Boxes of CAAPCOAT polyurethane coating kits;
- 27 b) Boxes containing Urethane Aliphatic Isocyanate;
- 28 c) Cans containing Solvent Cement;

1 d) Cans of Epoxy Coating;  
2 e) Gallon containers of caulking coating;  
3 f) Containers of Sealing Compound;  
4 g) Aerosol spray cans;  
5 h) 5 gallon buckets of paint;  
6 i) Phenolic Disinfectant; and  
7 j) 5 gallon plastic containers marked "TURCO" containing  
8 highly corrosive mineral acids.

9  
10 H. From data collected during the preliminary assessment by the  
11 EPA and TAT team on July 12, 1989, it appears that the Advanced  
12 Mini Storage Facility poses a substantial threat to human life  
13 and property. Analysis of eleven samples taken at the facility  
14 showed that most of the materials contained extremely low flash  
15 points and pose a potential for fire or explosion. Six out of  
16 the eleven samples had flash points below 110° F. In addition,  
17 two out of the eleven samples were extremely acidic (pH less than  
18 2). The inspectors noted deteriorated containers, and some  
19 leakage of chemicals.

20  
21 I. The stored solvents contain petroleum distillates, benzenes,  
22 methyl ketones, xylenes and toluene. In addition to being highly  
23 flammable and explosive, the prolonged inhalation of these vapors  
24 can cause severe health effects and organ damage.

25  
26 J. The immediate population at risk include those individuals  
27 working and visiting the Site. Individuals on site may be ex-  
28 posed to potentially dangerous vapors causing headaches, vomit-

ing, lightheadedness and nausea. Individuals are also at risk as the result of the high probability of an explosion or fire occurring.

K. In the event of an explosion or fire, off site residents, businesses, and commuters would also be at risk. Potentially hazardous emissions from the fire could adversely impact the community.

L. The EPA has designated an On-Scene-Coordinator ("OSC") for the site, pursuant to 40 C.F.R. Part 300, published at 50 Fed. Reg. 47912 (November 20, 1985).

### III. Conclusions of Law

A. The respondents are "persons" as defined in Section 101(21) of CERCLA, 42 U.S.C. §9601(21).

B. The property located at the Advanced Mini Storage facility, 2625 Monte Diablo Ave., Stockton, California is a "facility" as defined in Section 101(9) of CERCLA, 42 U.S.C. §9601(9).

C. The chemicals released at the facility, including military surplus materials, are "hazardous substances" as that term is defined in Section 101(14) of CERCLA, 42 U.S.C. §9601(14).

D. The presence of hazardous substances on the site and the potential for those substances to leak, mix and explode constitutes a "release" or "threatened release" of hazardous sub-

stances into the environment as defined in Section 101(22) of CERCLA, 42 U.S.C. §9601(22).

E. Respondents are "responsible parties" as defined in Section 107(a)(3) of CERCLA, 42 U.S.C. §9607(a)(3).

#### IV. Determinations

Based on the Findings of Fact and Conclusions of Law, the Director, Hazardous Waste Management Division, EPA Region 9, has made the following determinations:

A. The release or threatened release of hazardous substances and pollutants or contaminants from the site may present an imminent and substantial endangerment to the public health, welfare, and the environment.

B. In order to prevent or mitigate immediate and significant risk of harm to human health and the environment, it is necessary that actions be taken immediately to contain and prevent the release and potential release of hazardous substances, pollutants or contaminants from the site.

C. The removal measures required by this Order are consistent with the National Contingency Plan, 40 Code of Federal Regulations, Part 300.

#### V. Order

Based upon the Findings of Fact, Conclusions of Law and Determinations, EPA hereby Orders the Respondents to implement the following measures under the direction of EPA's On-Scene

1 Coordinator.

2  
3 A. The Respondents must continue to provide 24-hour security of  
4 the site. This must include any actions necessary to restrict  
5 entry to the site, and the posting of no-smoking or open flame  
6 signs in the vicinity of the affected areas, including storage  
7 units G-7, G-8, G-9, G-10.

8  
9 B. Within fourteen days (14) of the effective date of this Or-  
10 der, the Respondent shall submit a work plan and schedule of work  
11 for the permanent mitigation of the hazards posed by the presents  
12 of these surplus military goods in storage units G-7, G-8, G-9.  
13 and G-10.

14  
15 C. If deemed necessary by EPA, within five (5) days of receipt  
16 of any EPA comments, Respondents shall submit a revised work plan  
17 and schedule of work which incorporates EPA's comments.

18  
19 D. Upon written approval by EPA, Respondents shall implement  
20 the work plan according to the schedule approved by EPA.

21  
22 E. Respondents shall notify EPA at least five (5) working days  
23 prior to conducting any work at the site. Notification shall be  
24 made by telephone to William Lewis, EPA On-Scene Coordinator, at  
25 (415) 974-7464. Verbal notification shall be followed by written  
26 confirmation within two (2) days of the date of verbal notice.

27  
28 F. The Respondents shall complete the work required under this

1 order within sixty days (60) of EPA's approval of Respondent's  
2 workplan. The EPA must be notified in writing (5) days in ad-  
3 vance of this completion date.

4  
5 G. Each Respondent shall fully implement the plan as approved  
6 by EPA within the time period set forth in the schedule, and  
7 shall fully cooperate with each other in carrying out any and all  
8 activities required pursuant to this Order.

9  
10 **VI. Compliance With Other Laws**

11 Respondents shall comply with all federal, state and local  
12 laws and regulations in carrying out the terms of this Order. All  
13 hazardous substances removed from the facility must be handled in  
14 accordance with the Resource Conservation and Recovery Act of  
15 1976, 42 U.S.C. § 6921, et seq., the regulations promulgated un-  
16 der that Act, and Section 121(d)(3) of CERCLA, 42 U.S.C. Section  
17 9621(d)(3).

18  
19 **VII. On-Scene Coordinator**

20 EPA has appointed an On-Scene Coordinator (OSC) for the Site  
21 who has the authority vested in the On-Scene Coordinator by 40  
22 C.F.R. Part 300, et seq. The On-Scene Coordinator for the site  
23 for the purposes of this Order is:

24 William E. Lewis  
25 United States Environmental Protection Agency, Region 9  
26 215 Fremont Street  
27 San Francisco, California 94105  
28 (415) 974-7464

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1 **VIII. Submittals**

2 All submittals and notifications to EPA required by  
3 this Order or any approved proposal under this Order concerning  
4 the Advanced Mini Storage facility, Order number 89-14, shall be  
5 made to:

6 Jeff Zelikson  
7 Director, Hazardous Waste Management Division  
8 United States Environmental Protection Agency, Region 9  
215 Fremont Street  
San Francisco, California 94105

9 Copies of all submittals and notifications shall be sent to  
10 the On-Scene Coordinator.

11 All approvals and decisions of EPA made regarding the sub-  
12 mittals and modifications shall be communicated to Respondents by  
13 the Director, Hazardous Waste Management Division or his  
14 designee. No informal advice, guidance, suggestions, or comments  
15 by EPA regarding reports, plans, specifications, schedules, or  
16 any other matter will relieve Respondents of their obligation to  
17 obtain formal approvals as required by this Order.

18  
19 **IX. Access**

20 Respondents shall provide EPA employees and other represen-  
21 tatives with complete access to the facility at all times. Noth-  
22 ing in this Order limits any access rights that EPA or other  
23 agencies may have pursuant to law.

24  
25 **X. Endangerment During Implementation**

26 The Director, Hazardous Waste Management Division, EPA  
27 Region 9, may determine that acts or circumstances (whether re-  
28 lated to or unrelated to this Order) may endanger human health,

1 welfare or the environment and may order the Respondents to stop  
2 further implementation of this Order until the endangerment is  
3 abated.

#### 5 **XI. Government Not Liable**

6 The United States Government and its employees and other  
7 representatives shall not be liable for any injuries or damages  
8 to persons or property resulting from the acts or omissions of  
9 Respondents, their employees or other representatives caused by  
10 carrying out this Order. For the purposes of this Order, the  
11 United States Government is not a party to any contract with the  
12 Respondents.

#### 14 **XII. Noncompliance**

15 A. A willful violation or failure or refusal to comply  
16 with this Order may subject Respondents to a civil penalty of up  
17 to \$25,000 per day in which the violation occurs or failure to  
18 comply continues, pursuant to the provisions of Section 106(b)(1)  
19 of CERCLA, 42 U.S.C. §9606(b)(1). Failure to comply with this  
20 Order without sufficient cause may also subject Respondents to  
21 punitive damages of up to three times the total costs incurred by  
22 the United States for site response pursuant to Section 107(c)(3)  
23 of CERCLA, 42 U.S.C. § 9607(c)(3).

24 B. EPA may take over the response action at any time if  
25 EPA determines that Respondents are not taking appropriate ac-  
26 tion. EPA may order additional actions it deems necessary to  
27 protect public health, welfare, or the environment.

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1 **XIII. Opportunity to Confer**

2 Respondents may request a conference with the Director, Haz-  
3 arduous Waste Management Division, EPA Region 9, or his staff to  
4 discuss the provisions of this Order. At any conference held  
5 pursuant to Respondents' request, Respondents may appear in per-  
6 son or by counsel or other representatives for the purpose of  
7 presenting any objections, defenses or contentions which Respon-  
8 dents may have regarding this Order. If Respondents desire such  
9 a conference, Respondents must make a request orally within 24  
10 hours of receipt of this Order, and confirm the request in writ-  
11 ing immediately. A conference does not alter the effective date  
12 of the Order.

13  
14 **XIV. Parties Bound**

15 This Order shall apply to and is binding upon the Respon-  
16 dents, their officers, directors, agents, employees, contractors,  
17 successors, and assigns.

18  
19 **XV. Notice of Intent to Comply**

20 Within 24 hours of receipt of this Order, Respondents shall  
21 orally inform EPA of their intent to comply with the terms of  
22 this Order. The oral notice shall be confirmed within two days  
23 by written notice to the Director. Failure to timely notify EPA  
24 of the Respondents' intent to fully comply will be construed by  
25 EPA as a refusal to comply.

26  
27 **XVI. Notice to State**

28 Notice of the issuance of this Order has been given to the

1 State of California. EPA will consult with the California  
2 Department of Health Services and the County of San Joaquin, as  
3 appropriate.


4  
5 **XVII. Effective Date**

6 Notwithstanding any conferences requested pursuant to the  
7 provisions of this Order, this Order is effective on the date of  
8 execution by the Director, Hazardous Waste Management Division,  
9 EPA Region 9.

10  
11 IT IS SO ORDERED on this 19<sup>th</sup> day of July, 1989.

12 UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
13

14 by:

15   
16 Jeff Zelikson  
Director, Toxics and Waste Management Division  
EPA, Region 9

17 **Contacts:**

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